

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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HAWK TECHNOLOGY SYSTEMS, LLC,	)	Case No. 15-cv-14031
	)	
Plaintiff,	)	
	)	
v.	)	<b><u>AMENDED COMPLAINT</u></b>
	)	
BERKLEE COLLEGE OF MUSIC, INC.,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	

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Plaintiff, HAWK TECHNOLOGY SYSTEMS, LLC (“Hawk”), hereby files its amended complaint against BERKLEE COLLEGE OF MUSIC, INC. (“Berklee”) and alleges:

**NATURE OF THE ACTION**

1. This is a civil action for patent infringement of United States Patent No. RE43,462 (‘462 Patent). The ‘462 Patent is a reissue of United States Patent No. 5,265, 410 (the ‘410 Patent). The independent claims in the reissued ‘462 Patent are substantially identical to the corresponding claims in the original ‘410 Patent.

2. A copy of the ‘462 Patent is attached hereto as Exhibit A.

3. Hawk’s original complaint in this matter was filed on or about December 7, 2015.

4. Defendant Berklee made a motion to dismiss Hawk’s original complaint on January 26, 2016, asserting that Hawk had not adequately pleaded its claim for patent infringement because, in part, Berklee said the complaint “does not identify any exemplar video storage and display system that is allegedly being used by Berklee, nor does the Complaint explain how any claims in the Patent-in-Suit have been allegedly infringed.”

5. Prior to Berklee’s motion to dismiss, Hawk had twice informed Berklee of the system at issue and how each step of the method set forth in Claim 12 was being infringed. First,

Hawk served a claim chart simultaneously with the original complaint. Second, Hawk's counsel provided the claim chart to counsel for Berklee by email dated December 10, 2015.

6. This amended complaint, filed as of right pursuant to Fed. R. Civ. P. 15(a)(1)(B), incorporates the claim chart as part of the complaint. The claim chart discloses the system that has been used by Berklee and explains that in using the system Berklee performed each step of Claim 12 of the '462 Patent and, therefore, has infringed the '462 Patent.

### **PARTIES**

7. Hawk is a limited liability company organized and existing under the laws of the State of Florida, and maintains its principal place of business at 2 South Biscayne Blvd., Suite 3800, Miami, Florida 33131.

8. Berklee, is an educational institution organized and existing under the laws of the State of Massachusetts, with its principal place of business located at 1140 Boylston Street, Boston, Massachusetts 02215.

### **JURISDICTION AND VENUE**

9. Pursuant to 28 U.S.C. §§ 1331 and 1338(a), this Court has original jurisdiction over the subject matter of this action because this is an action arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et. seq.*

10. This court has personal jurisdiction over Berklee because infringing activity alleged herein took place in the State of Massachusetts. Further, the exercise of personal jurisdiction comports with Due Process under the United States Constitution.

11. Pursuant to 28 U.S.C. §§ 1391 and 1400(b), venue is proper in this district.

**GENERAL ALLEGATIONS**

12. Hawk Technology Systems, LLC was formed in 2012 to commercialize the inventions of its founder, Barry Schwab.

13. Mr. Ken Washino and Mr. Schwab invented what is claimed by the '462 Patent.

14. Mr. Washino and Mr. Schwab have collaborated on a number of other pioneering inventions resulting in patents in the areas of video archiving, video downloading and digital cinema.

15. Mr. Schwab is also a named inventor on more than thirty patents, ranging from consumer products to secure network computing.

16. Hawk is the exclusive owner of all rights, title, and interest in the '462 Patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement thereof.

17. Hawk became the owner of all rights, title, and interest in the '462 Patent by virtue of an assignment from Multi-Format, Inc., a New Jersey corporation ("MFI").

18. MFI obtained its rights, title, and interest in the '462 Patent by virtue of an assignment from Messrs. Washino and Schwab.

**Infringement of Claim 12 Of The '462 Patent**

19. Claim 12 of the '462 patent states:

The method of simultaneously displaying and storing multiple video images, comprising the steps of:

receiving video images at a personal computer based system from one or more sources;

digitizing any of the images not already in digital form using an analog-to-digital converter;

displaying at least certain of the digitized images in separate windows on a personal computer based display device, using a first set of temporal and spatial parameters associated with each image in each window;

converting one or more of the video source images into a data storage format using a second set of temporal and spatial parameters associated with each image; and simultaneously storing the converted images in a storage device.

(‘462 Patent, Col. 11, line 62 – Col. 12, line 10).

20. Berklee uses a video storage and display system and methods that infringe Claim 12 of the ‘462 Patent.

21. A claim chart, attached as Exhibit B and hereby incorporated by reference as part of this complaint, explains how Berklee performs each step of method in Claim 12.

22. More specifically, the claim chart: discloses that Berklee has used the Lenel OnGuard security system, based on a case study; discloses the functions and capabilities the system employs, based on publications by Lenel; and, discloses that by employing this technology, Berklee has performed each and every step of the method in Claim 12.

23. Hawk reserves the right to assert additional claims are infringed following discovery.

**COUNT I: DIRECT INFRINGEMENT OF THE ‘462 PATENT**

24. The allegations contained in paragraphs 1-24 above are hereby re-alleged as if fully set forth herein.

25. Plaintiff is the owner by assignment of the ‘462 Patent, with sole rights to enforce the ‘462 Patent and to sue infringers.

26. Without Hawk’s authorization, Berklee uses a video storage and display system and/or methods that infringe one or more of the claims in the ‘462 Patent.

27. Hawk has been damaged by Berklee’s infringement.

28. For the avoidance of doubt, Hawk only seeks damages which are not barred by the statute of limitations for infringement that occurred prior to the patent expiring on April 29, 2014.

**PRAYER FOR RELIEF**

**WHEREFORE**, Hawk Technology Systems, LLC respectfully requests the Court:

- A. Enter a judgment finding that Berklee has directly infringed the '462 Patent;
- B. Pursuant to 35 U.S.C. § 284, order Berklee to pay damages adequate to compensate for the infringement, but in no event less than a reasonable royalty for the use made of the invention, together with interest and costs;
- C. Find this to be an exceptional case of patent infringement under 35 U.S.C. § 285 and award reasonable attorneys' fees, costs, and expenses incurred by Hawk Technology Systems, LLC in prosecuting this action; and
- D. Award such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted,

**LOCKRIDGE GRINDAL NAUEN P.L.L.P.**

Dated: January 27, 2016

**s/ Gregory J. Myers**

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**ATTORNEYS FOR PLAINTIFF HAWK  
TECHNOLOGY SYSTEMS, LLC.**

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on January 27, 2016.

**s/ Gregory J. Myers**